

# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER FOR PATENTS P.O. Box 1450 Alexandria, Virginia 22313-1450 www.usplo.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/089,201	03/27/2002	Udo Gartner	540608-2002	2371	
	90 05/20/2004		EXAM	EXAMINER	
	AWRENCE & HAUG ENUE- 10TH FL.		MCCLOUD,	RENATA D	
NEW YORK, 1	NY 10151		ART UNIT	PAPER NUMBER	
	*		2837		
			DATE MAILED: 05/20/200		

Please find below and/or attached an Office communication concerning this application or proceeding.

## Communication Summary    Communication   C			Application No.	Applicant(s)			
Renata McCloud  Renata McCloud  2837  Period for Repty  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  THE MALLING DATE OF THIS COMMUNICATION.  - Extendence of time may be available under the provision of 37 (FR 1136(a). In no event, however, may a reply to timely filed aber 50 (K) MONTHS from the mainly date of this communication.  - If the provision reply appending thore is less than theiry (30) days, a reply within the abstract primitime of think (30) days, will be considered timely.  - Status  - Fallute or severy within the act or extended period for reply will, by status, cause the application become ABMONDOTS of U.S. C, § 113.  - Arrange previously by the Disce later than these months after the mailing date of this communication, even if timely filed, may reduce any strategic timely.  - This action is FINAL.  - 2b) This action is final.  - 2b) This action is final.  - 2b) This action is condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Exparte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) 8-12 is/are pending in the application.  - 4a) Of the above claim(s)	Office Action Summary		10/089,201	GARTNER ET AL.			
Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE g MONTH(s) FROM THE MAILING DATE OF THIS COMMUNICATION.  • Edimentors of them tips be available under the procisions of 3 CFR 1.739(a). In no event, insevere, may a raply be timely filed  • If the period for reply is specified above is less than thirty (30) days, a reply within the statisticary minimum of thiely (30) days will be considered timely.  • If the period for reply is specified above, be maximum entable, port of will apply and will explose X(a) (MoNTH's from the mailing date of this communication, and the period for reply is specified above, be maximum entable, port of will apply and will explose X(a) (MoNTH's from the mailing date of this communication, and the period to reply is specified above, be maximum entable, port of will apply and will explose X(a) (MoNTH's from the mailing date of this communication, and the period to reply is specified become ARAPOSITED, and the replication is communication to the period of the communication of the replication is communication to the period of the communication of the communication is non-final.  1) ■ Responsive to communication(s) filed on 19 February 2004.  2a) ■ This action is FINAL. 2b) ■ This action is non-final.  3) ■ Since this application is in condition for allowance except for formal matters, prosecution as to the ments is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) ■ Claim(s) 8-12 isfare plending in the application.  4) □ Claim(s) 8-12 isfare rejected.  5) □ Claim(s) ■ isfare allowed.  6) □ Claim(s) ■ isfare objected to by the Examiner.  5) □ Claim(s) ■ isfare objected to by the Examiner.  10) □ The drawing(s) filed on 2T March 2002 isfare: a) □ accepted or b) □ objected to by the Examiner.  Application Papers  9) □ The specification is objected to by the Examiner. Note the attached Office Action or form PCTO-152.  Priority under 35 U.S.C. § 119  11) □ The oath or declaration is objected to by the Exa			Examiner	Art Unit			
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION DEtentations of time may be waited builder the proteodor of 3 CPR 1.136(a). In no event, however, may a septy the timely filled effect SK (6) aboxitist from the mailing date of this communication.  For the SK (6) aboxitist from the mailing date of this communication.  From the Communication of the state of the communication of the commun			Renata McCloud	2837			
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  **Standard of them type is well-believed before the protection of 37 CPR 1.139(ii). In no event, however, may a raply be timely filed  **The period for raply specified above is loss than thirty (30) days, as reply within the statutory minimum of thirty (30) days will be considered timely.  **The period for raply specified above, its maximum interest protein of apply and vall applied 35 (iii) (i	Period fe	The MAILING DATE of this communication app or Reply	ears on the cover sheet with the c				
Status  1) Responsive to communication(s) filed on 19 February 2004.  2a) This action is FINAL.  2b) This action is non-final.  3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) 8-12 is/are pending in the application.  4a) Of the above claim(s) is/are allowed.  5) Claim(s) is/are allowed.  6) Claim(s) - is/are rejected.  7) Claim(s) - is/are objected to.  8) Claim(s) - is/are objected to.  8) Claim(s) - are subject to restriction and/or election requirement.  Application Papers  9) The specification is objected to by the Examiner.  10) The drawing(s) filed on 27 March 2002 is/are: a) accepted or b) objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to See 37 CFR 1.121(d).  11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.  Priority under 35 U.S.C. § 119  12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some * c) None of:  1 Certified copies of the priority documents have been received in Application No.  3. Ocipies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  Attachment(s)  1) All bolice of References Cled (PTO-922)  All Paper No(s)Mail Date Paper	A SH THE - Exte after - If the - If NC - Failu Any	ORTENED STATUTORY PERIOD FOR REPLY MAILING DATE OF THIS COMMUNICATION. nsions of time may be available under the provisions of 37 CFR 1.13 SIX (6) MONTHS from the mailing date of this communication. Period for reply specified above is less than thirty (30) days, a reply operiod for reply is specified above, the maximum statutory period were to reply within the set or extended period for reply will, by statute, reply received by the Office later than three months after the mailing	16(a). In no event, however, may a reply be time within the statutory minimum of thirty (30) days ill apply and will expire SIX (6) MONTHS from cause the application to become ABANDONE.	ely filed  will be considered timely, the mailing date of this communication.			
2a  This action is FINAL   2b  This action is non-final   3   Since this application is in condition for allowance except for formal matters, prosecution as to the ments is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.    Disposition of Claims   4  Claim(s) 8-12 is/are pending in the application   4a) Cf the above claim(s) is/are withdrawn from consideration.   4a) Cf the above claim(s) is/are allowed.   5  Claim(s) is/are allowed.   5  Claim(s) is/are allowed.   6  Claim(s) is/are allowed.   6  Claim(s) is/are allowed.   6  Claim(s) is/are objected to   6  Claim(s) is/are is/a				•			
2a  This action is FINAL   2b  This action is non-final   3   Since this application is in condition for allowance except for formal matters, prosecution as to the ments is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.    Disposition of Claims   4  Claim(s) 8-12 is/are pending in the application   4a) Cf the above claim(s) is/are withdrawn from consideration.   4a) Cf the above claim(s) is/are allowed.   5  Claim(s) is/are allowed.   5  Claim(s) is/are allowed.   6  Claim(s) is/are allowed.   6  Claim(s) is/are allowed.   6  Claim(s) is/are objected to   6  Claim(s) is/are is/a	1)  🏹	Responsive to communication(s) filed on 19 Fe	bruary 2004	,			
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) 8-12 is/are pending in the application.  4a) Of the above claim(s) is/are withdrawn from consideration.  5) Claim(s) is/are allowed.  Claim(s) is/are objected.  7) Claim(s) is/are objected to.  8) Claim(s) are subject to restriction and/or election requirement.  Application Papers  9) The specification is objected to by the Examiner.  10) The drawing(s) filed on 27 <i>March</i> 2002 is/are: a) accepted or b) Ø objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form.PTO=152.  Priority under 35 U.S.C. § 119  12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) Ø All b) Some c) None of:  1. Certified copies of the priority documents have been received.  2. Certified copies of the priority documents have been received in Application No  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  *See the attached detailed Office action for a list of the certified copies not received.  Attachment(s)  1) Notice of References Cited (PTO-892)  Paper No(s)/Mail Date  5) Notice of Informal Patent Application (PTO-152)  Paper No(s)/Mail Date  5) Notice of Informal Patent Application (PTO-152)  6) Other:  9) Characters are provided to the proof of the priority documents have been received.				•			
closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) ☐ Claim(s) 8-12 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration.  5) ☐ Claim(s) is/are allowed. 6) ☐ Claim(s) is/are objected to. 8) ☐ Claim(s) is/are objected to. 8) ☐ Claim(s) is/are objected to by the Examiner.  Application Papers  9) ☐ The papers  9) ☐ The drawing(s) filed on 27 March 2002 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form.PTO=152.  Priority under 35 U.S.C. § 119  12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) ☐ All b) ☐ Some * c) ☐ None of:  1. ☐ Certified copies of the priority documents have been received. 2. ☐ Certified copies of the priority documents have been received in Application No 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  Attachment(s)  1) ☐ Notice of References Cited (PTO-982) 2 ☐ Notice of References Cited (PTO-1449 or PTO/SB/08) 3 ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date 5 ☐ Notice of Informal Patent Application (PTO-152) 6 ☐ Other: 5 ☐ Ot	·=						
Disposition of Claims							
4)	Di		pario studylo, 1900 O.D. 11, 40	0 O.G. 210.			
4a) Of the above claim(s) is/are withdrawn from consideration.  5)			•				
5) ☐ Claim(s) is/are allowed. 6) ☐ Claim(s) 8-12 is/are rejected. 7) ☐ Claim(s) is/are objected to. 8) ☐ Claim(s) is/are objected to. 8) ☐ Claim(s) is/are objected to. 8) ☐ Claim(s) is/are objected to by the Examiner. 10) ☐ The papers  9) ☐ The specification is objected to by the Examiner. 10) ☐ The drawing(s) filed on 27 March 2002 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action.or.form.PTO-152.  Priority under 35 U.S.C. § 119  12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) ☐ All b) ☐ Some * c) ☐ None of: 1. ☐ Certified copies of the priority documents have been received. 2. ☐ Certified copies of the priority documents have been received in Application No. ☐ 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  Attachment(s)  1) ☐ Notice of References Cited (PTO-892)		4)⊠ Claim(s) <u>8-12</u> is/are pending in the application.					
6)	34	4a) Of the above claim(s) is/are withdrawn from consideration.					
7) ☐ Claim(s) is/are objected to. 8) ☐ Claim(s) are subject to restriction and/or election requirement.  Application Papers  9) ☒ The specification is objected to by the Examiner.  10) ☒ The drawing(s) filed on 27 March 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action.or.form.PTO=152.  Priority under 35 U.S.C. § 119  12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)=(d) or (f).  a) ☒ All b) ☐ Some * c) ☐ None of:  1. ☐ Certified copies of the priority documents have been received.  2. ☐ Certified copies of the priority documents have been received in Application No  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  Attachment(s)  1) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)  3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  Paper No(s)/Mail Date  5) ☐ Notice of Informal Patent Application (PTO-152)  Paper No(s)/Mail Date  5) ☐ Notice of Informal Patent Application (PTO-152)  Paper No(s)/Mail Date  10 Cheric  11 Interview Summary (PTO-413)  Paper No(s)/Mail Date  12 ☐ Notice of Informal Patent Application (PTO-152)  Paper No(s)/Mail Date  13 ☐ Notice of Informal Patent Application (PTO-152)  14 ☐ Interview Summary (PTO-413)  Paper No(s)/Mail Date  15 ☐ Notice of Informal Patent Application (PTO-152)  Paper No(s)/Mail Date  16 ☐ Other:  17 ☐ Notice of Informal Patent Application (PTO-152)	5)	5) Claim(s) is/are allowed.					
8) ☐ Claim(s) are subject to restriction and/or election requirement.  Application Papers  9) ☐ The specification is objected to by the Examiner.  10) ☐ The drawing(s) filed on 27 March 2002 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.  Priority under 35 U.S.C. § 119  12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) ☐ All b) ☐ Some * c) ☐ None of:  1. ☐ Certified copies of the priority documents have been received.  2. ☐ Certified copies of the priority documents have been received in Application No  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  Attachment(s)  1) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  Paper No(s)/Mail Date  5) ☐ Notice of Informal Patent Application (PTO-152)  Paper No(s)/Mail Date  5) ☐ Notice of Informal Patent Application (PTO-152)  Paper No(s)/Mail Date  10 ☐ Other:	6)⊠	6)⊠ Claim(s) <u>8-12</u> is/are rejected.					
Application Papers  9) ☑ The specification is objected to by the Examiner.  10) ☑ The drawing(s) filed on 27 March 2002 is/are: a) ☐ accepted or b) ☑ objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form.PTO-152.  Priority under 35 U.S.C. § 119  12) ☑ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) ☑ All b) ☐ Some * c) ☐ None of:  1. ☐ Certified copies of the priority documents have been received.  2. ☐ Certified copies of the priority documents have been received in Application No  3. ☑ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  Attachment(s)  1) ☑ Notice of References Cited (PTO-892)  2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  Paper No(s)/Mail Date  5) ☐ Notice of Informal Patent Application (PTO-152)  Paper No(s)/Mail Date  5) ☐ Notice of Informal Patent Application (PTO-152)  Paper No(s)/Mail Date  5) ☐ Notice of Informal Patent Application (PTO-152)  Paper No(s)/Mail Date	7)	7) Claim(s) is/are objected to.					
9) The specification is objected to by the Examiner.  10) The drawing(s) filed on 27 March 2002 is/are: a) accepted or b) objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11) The oath or declaration is objected to by the Examiner. Note the attached Office Action.or.form.PTO=152.  Priority under 35 U.S.C. § 119  12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some cyll None of:  1. Certified copies of the priority documents have been received.  2. Certified copies of the priority documents have been received in Application No.  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  Attachment(s)  1) Notice of References Cited (PTO-982)  2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  Paper No(s)/Mail Date.  5) Notice of Information Patent Application (PTO-152)  Paper No(s)/Mail Date.  5) Notice of Information (PTO-152)  6) Other:  10 Other:  11 Other Statement Application (PTO-152)	8) 🗌	Claim(s) are subject to restriction and/or	election requirement.				
10) ☐ The drawing(s) filed on 27 March 2002 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action.or.form.PTO-152.  Priority under 35 U.S.C. § 119  12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) ☐ All b) ☐ Some * c) ☐ None of:  1. ☐ Certified copies of the priority documents have been received.  2. ☐ Certified copies of the priority documents have been received in Application No. ☐  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  Attachment(s)  1) ☐ Notice of References Cited (PTO-892)  2) ☐ Notice of Pafsperson's Patent Drawing Review (PTO-948)  Paper No(s)/Mail Date	Applicati	on Papers		·			
10) ☐ The drawing(s) filed on 27 March 2002 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action.or.form.PTO-152.  Priority under 35 U.S.C. § 119  12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) ☐ All b) ☐ Some * c) ☐ None of:  1. ☐ Certified copies of the priority documents have been received.  2. ☐ Certified copies of the priority documents have been received in Application No. ☐  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  Attachment(s)  1) ☐ Notice of References Cited (PTO-892)  2) ☐ Notice of Pafsperson's Patent Drawing Review (PTO-948)  Paper No(s)/Mail Date							
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action.or.form.PTO=152.  Priority under 35 U.S.C. § 119  12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a)  All b)  Some * c)  None of:  1.  Certified copies of the priority documents have been received.  2.  Certified copies of the priority documents have been received in Application No.  3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  Attachment(s)  Attachment(s)  Attachment(s)  Attachment(s)  1)  Notice of References Cited (PTO-892)  2)  Notice of References Cited (PTO-1449 or PTO/SB/08)  Paper No(s)/Mail Date			•	butho Francisco			
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.  Priority under 35 U.S.C. § 119  12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a)  All b)  Some * c)  None of:  1.  Certified copies of the priority documents have been received.  2.  Certified copies of the priority documents have been received in Application No  3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  Attachment(s)  1)  Notice of References Cited (PTO-892)							
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.  Priority under 35 U.S.C. § 119  12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) ☐ All b) ☐ Some * c) ☐ None of:  1. ☐ Certified copies of the priority documents have been received.  2. ☐ Certified copies of the priority documents have been received in Application No  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  Attachment(s)  1) ☐ Notice of References Cited (PTO-892)  2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  Paper No(s)/Mail Date  5) ☐ Notice of Informal Patent Application (PTO-152)  Paper No(s)/Mail Date  13. ☐ Cother:							
Priority under 35 U.S.C. § 119  12)							
12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some * c) None of:  1. Certified copies of the priority documents have been received.  2. Certified copies of the priority documents have been received in Application No.  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  Attachment(s)  1) Notice of References Cited (PTO-892)  2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  Paper No(s)/Mail Date  5) Notice of Informal Patent Application (PTO-152)  6) Other:  1. Certified copies of the priority documents have been received.  4) Interview Summary (PTO-413)  Paper No(s)/Mail Date  5) Notice of Informal Patent Application (PTO-152)  6) Other:			arminer. Note the attached Office,	Action of torm P1O-152.			
a) All b) Some * c) None of:  1. Certified copies of the priority documents have been received.  2. Certified copies of the priority documents have been received in Application No  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  Attachment(s)  1) Notice of References Cited (PTO-892)  2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date  5. Patent and Trademark Office	Priority u	nder 35 U.S.C. § 119					
2. Certified copies of the priority documents have been received in Application No  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  Attachment(s)  1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date  1. S. Patent and Trademark Office	a)⊠ All b)□ Some * c)□ None of:						
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  Attachment(s)  1) Notice of References Cited (PTO-892)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date  1) Paper No(s)/Mail Date  1) Notice of Informal Patent Application (PTO-152) Paper No(s)/Mail Date  1) Notice of Informal Patent Application (PTO-152) Paper No(s)/Mail Date							
application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  Attachment(s)  1) Notice of References Cited (PTO-892)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  Paper No(s)/Mail Date  1.S. Patent and Trademark Office							
* See the attached detailed Office action for a list of the certified copies not received.  Attachment(s)  1) Notice of References Cited (PTO-892)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  Paper No(s)/Mail Date  1.S. Patent and Trademark Office							
Attachment(s)  1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date  1) Notice of Informal Patent Application (PTO-152) Patent and Trademark Office	$\cdot$						
1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 5) Notice of Informal Patent Application (PTO-152) Paper No(s)/Mail Date 6) Other:		ee the attachied detailed Office action for a list o	i the centiled copies not received	l.			
1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 5) Notice of Informal Patent Application (PTO-152) Paper No(s)/Mail Date 6) Other:							
1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 5) Notice of Informal Patent Application (PTO-152) Paper No(s)/Mail Date 6) Other:	Attachment	(s)					
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date  5) Notice of Informal Patent Application (PTO-152) Control of PTO-152 Control		:	A) [] Interview Comment of	OTO 442)			
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date  5) Notice of Informal Patent Application (PTO-152) 6) Other:	2) Notice of Draftsperson's Patent Drawing Review (PTO-948) Paper No(s)/Mail Date						
J.S. Patent and Trademark Office	3) Inform	nation Disclosure Statement(s) (PTO-1449 or PTO/SB/08)	5) Notice of Informal Pa				
PTOL-326 (Rev. 1-04) Office Action Summary Part of Paper No./Mail Date 20040513	J.S. Patent and Tra	ademark Office					

### **DETAILED ACTION**

# Response to Amendment

1. In response to the amendment filed 19 February 2004, the following has occurred: Claim 8 has been amended.

# Specification

- 2. The disclosure is objected to because of the following informalities:
- (i) Page 1, line 5 of the specification refers to the journal *Automotive Engineering*, June 1977, page 45, Fig. 5; Page 2 line 14 of the specification refers to page 44, Fig. 3; and Page 2 line17 of the specification refers to Fig. 4 on page 45.

The incorporation of essential material in the specification by reference to a foreign application or patent, or to a publication is improper. Applicant is required to amend the disclosure to include the material incorporated by reference. The amendment must be accompanied by an affidavit or declaration executed by the applicant, or a practitioner representing the applicant, stating that the amendatory material consists of the same material incorporated by reference in the referencing application. See *In re Hawkins*, 486 F.2d 569, 179 USPQ 157 (CCPA 1973); *In re Hawkins*, 486 F.2d 579, 179 USPQ 163 (CCPA 1973); and *In re Hawkins*, 486 F.2d 577, 179 USPQ 167 (CCPA 1973).

(ii) Page 6, line 3 of the specification refers to "Both forms of the invention, the U-shaped pipe configuration as well as the S-shaped configuration". However, there is no description of the S-shaped configuration.

(iii) The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

## **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a).

"Microfiche Appendices" were accepted by the Office until March 1, 2001.)

- (e) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (f) BRIEF SUMMARY OF THE INVENTION.
- (g) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (h) DETAILED DESCRIPTION OF THE INVENTION.
- (i) CLAIM OR CLAIMS (commencing on a separate sheet).
- (j) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (k) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Appropriate correction is required.

### **Drawings**

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, (a) the S-form configuration, (b) a motor vehicle, and (c) modular parts, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

## Claim Objections

4. Claim 8 is objected to because of the following informalities: Line 4 of claim 8 recites the limitation "into which the openings of the gas-conducting pipe communicatively open", which has a grammatical error. A suggestion for rewriting this would be " into which the openings of the gas-conducting pipe <u>are</u> communicatively open". Appropriate correction is required.

# Claim Rejections - 35 USC § 112

- 5. The following is a quotation of the first paragraph of 35 U.S.C. 112:
  - The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
- 6. Claims 8, 10, and 12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which

was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

- a. Claim 8: there is nothing in the specification that supports the gasconducting pipe being constructed as a modular part for a two-part silencer housing and the modular part of a series of modular parts configured with different openings.
- b. Claim 10: there is nothing in the specification that supports a S-form configuration of the pipe assembly.
- c. Claim 12: there is nothing in the specification that supports a method for silencing an exhaust installation of a motor vehicle.
- 7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

  The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject-matter-which the applicant-regards as his invention.
- 8. Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
- (a) The recitation "in connection with the defined openings specifications of all openings of the pipe communicatively aligned with the respective housing chamber" is unclear. The claim recites the limitation "the defined openings specifications". There is insufficient antecedent basis for this limitation in the claim.

Application/Control Number: 10/089,201 Page 6

Art Unit: 2837

(b) The limitation "arranged in a silencer housing in such a manner that it runs through an axial series of silencer housing chambers", is unclear. It is unclear what "it" is referring to. Is it the exhaust silencer or the pipe? The way the claim is written, it reads "An exhaust silencer, arranged in a silencer housing".

(c) The recitation "the modular part of a modular series of modular parts is configured with different openings" is unclear.

## Claim Rejections - 35 USC § 103

- 9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
  - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 10. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eberspacher (FR 1258458), in view of Wolf et al (WO97/40271)\*.

\*Note: US 5,979,598 has been used as a translation for WO97/40271.

Claim 8: An exhaust silencer, comprised of a gas-conducting pipe (Fig. 2: 2) having openings (Fig. 2: 3) of a defined cross-section and defined wall height, arranged in a silencer housing in such a manner that it runs through an axial series of silencer housing chambers (Fig. 2: 1,1a, 1b) insulated gastight from each other, into which the openings of the gas-conducting pipe communicatively open, and the gas-conducting pipe is led through the silencer housing chambers in such a manner that the latter run

Application/Control Number: 10/089,201

Art Unit: 2837

through each of the silencer housing chambers at least twice (Fig. 2: 2 runs through each chamber twice), with minimal dissipation losses.

It is unclear if Eberspacher teaches the volumes of all chambers of the silencer housing in connection with the defined openings specifications of all openings of the pipe communicatively aligned with the respective silencer housing chamber are tunable to an interference frequency band from the noise spectrum of the exhaust gases to be dampened respectively, and wherein the gas-conducting pipe is constructed as a modular part for a two-part silencer housing, and the modular part of a modular series of modular parts is configured with different openings tuned to the same respective silencer housing chamber volumes.

Wolf et al teach an exhaust silencer comprising a gas-conducting pipe (Fig. 1: 2) having openings of a defined cross-section and defined wall height the volumes of all chambers of the silencer housing in connection with the defined openings specifications of all openings of the pipe communicatively aligned with the respective silencer housing chamber are tunable to an interference frequency band from the noise spectrum of the exhaust gases to be dampened respectively (Col. 3:60-4:20), and wherein the gas-conducting pipe Fig. 1:2) is constructed as a modular part for a two-part silencer housing (Fig. 1:4; Col. 5:29-34), and the modular part of a modular series of modular parts is configured with different openings (Fig. 1:7) tuned to the same respective silencer housing chamber volumes (Col. 3:60-64). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus taught by Eberspacher and Wolf et al to include a the teaching of Wolf et al.

The advantage of this would be a muffler that allows effective damping of airborne noise over a broad band of frequency.

Page 8

Claim 9: Eberspacher and Wolf et al teach the limitations of claim 8. Referring to claim 9, Eberspacher teaches a U-shaped configuration of the pipe assembly (Fig. 2).

Claim 11: Eberspacher and Wolf et al teach the limitations of claim 8. Referring to claim 11, Wolf et al teach a gas-conducting pipe of die cast aluminum or plastic (Col. 2: 65-3:1).

Claim 12: Eberspacher and Wolf et al teach the limitations of claim 8. Referring to claim 12, Wolf et al teach a muffler used in exhaust installations for motor vehicles (Col. 1:1-5).

11. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eberspacher and Wolf et al as applied to claim 8 above, and further in view of Kullander et al (U.S. Patent 5,332,873).

Claim 10: Eberspacher and Wolf et al teach the limitations of claim 8. Referring to claim 10, they do not teach and S-form configuration. Kullander et al teach an S-form configuration (Fig. 2:7 and 8) of the pipe assembly in the silencer housing. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus taught by Eberspacher and Wolf et al to include a S-shaped pipe as taught by Kullander et al. The advantage of this would be a design choice that allows means for a muffler to be adapted to a limited space.

# R spons to Argum nts

12. Applicant's arguments with respect to claims 8-12 have been considered but are most in view of the new ground(s) of rejection.

#### Conclusion

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Renata McCloud whose telephone number is (571) 272-2069. The examiner can normally be reached on Mon.- Fri. from 8 am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Martin can be reached on (571) 272-2800 ext. 4. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Renata McCloud

Examiner

Art Unit 2837

RDM

DAVID MARTIN
SUPERVISORY PATENT EXAMINER

**TECHNOLOGY CENTER 2800**